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COMMISSION ON HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 53rd MEETING
(FIRST PART) *

Held at the Palais des Nations, Geneva,
on Friday, 3 March 1995, at 3 p.m.

Chairman: Mr. BIN HITAM (Malaysia)

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* The summary record of the second part of the meeting appears as
document E/CN.4/1995/SR.53/Add.1.

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- (a) QUESTION OF HUMAN RIGHTS IN CYPRUS (continued)

The meeting was called to order at 3.10 p.m.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-SIXTH SESSION:

(a) INDIGENOUS ISSUES

(agenda item 19) (continued) (E/CN.4/1995/L.33, L.37, L.38, L.39, L.41, L.42, L.45, L.46, L.61 and L.62, E/CN.4/1995/2-E/CN.4/Sub.2/1994/56, chapter I, section B, draft decisions 2, 3, 4, 12, 13, 14, 15, 16 and 17)

Draft resolution on the report of the Working Group on Indigenous Populations of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/1995/L.61)

1. Mr. LORD (Canada), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Chile, Mexico and United States of America and the observers for Armenia and Bolivia, said that a technical modification had been made to paragraph 2, which should read: "Expresses its appreciation and satisfaction to the Working Group on Indigenous Populations of the Sub-Commission for its valuable work, in particular for the completion of the draft 'United Nations declaration on the rights of indigenous peoples'".
 2. The sponsors of the draft resolution were in favour of continuing the mandate of the Working Group, which had a unique role to play in focusing attention on indigenous concerns and aspirations. He noted with appreciation the Working Group's ongoing efforts to define and advance the rights of indigenous people throughout the world.
 3. If adopted, draft resolution E/CN.4/1995/L.61 would supersede decision 12 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.
 4. Mr. MÖLLER (Secretary of the Commission) said that the resolution was considered to fall within the scope of mandates of the Economic and Social Council, for which resources had already been provided under section 21 (human rights) of the programme budget for 1994-1995. No additional resources would, therefore, be required for the implementation of the resolution.
 5. Draft resolution E/CN.4/1995/L.61, as orally revised, was adopted.
- Draft resolution on the establishment of a working group of the Commission to consider the draft "United Nations declaration on the rights of indigenous peoples" as contained in the annex to resolution 1994/45 of 26 August 1994 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, with the sole purpose of providing a draft declaration for consideration and adoption by the General Assembly within the International Decade of the World's Indigenous People (E/CN.4/1995/L.62)
6. Ms. WENSLEY (Australia), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Chile, Mexico, and the United States of America and the observers for Armenia, Bolivia

and Sweden, said that it outlined procedures for the participation of organizations of indigenous people in the proposed open-ended inter-sessional working group and invited applications from any such organization which wished to participate. The text also specified the duration of the first meeting of the working group and called for Governments, intergovernmental organizations, non-governmental organizations (NGOs) and organizations of indigenous people authorized to participate to submit comments on the draft declaration.

7. Following lengthy consultations carried out in a spirit of cooperation, five revisions had been made to the draft text. The title of the draft text should read: "Establishment of a working group of the Commission to elaborate a draft declaration in accordance with operative paragraph 5 of General Assembly resolution 49/214".

8. In the third line of paragraph 1, the words "to consider the draft 'United Nations declaration on the rights of indigenous peoples' submitted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (resolution 1994/45 of 26 August 1994, annex) with the sole purpose of providing a draft declaration" should be replaced by "with the sole purpose of elaborating a draft declaration, considering the draft contained in the annex to resolution 1994/45 of 26 August 1994 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities entitled 'United Nations declaration on the rights of indigenous peoples'".

9. In the second line of paragraph 8, following the words "non-governmental organizations" the words "in consultative status with the Economic and Social Council" should be inserted.

10. A new paragraph should be inserted between paragraphs 8 and 9 to read: "Recommends that the Economic and Social Council take the appropriate steps to expedite the implementation of this resolution".

11. In paragraph 10, subparagraph 2, the words "to consider the draft 'United Nations declaration on the rights of indigenous peoples' submitted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (resolution 1994/45 of 26 August 1994, annex), with the sole purpose of providing a draft declaration" should be replaced by "with the sole purpose of elaborating a draft declaration, considering the draft contained in the annex to resolution 1994/45 of 26 August 1994 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities entitled 'United Nations declaration on the rights of indigenous peoples'".

12. She hoped that the draft resolution would be adopted by consensus.

13. Mr. LILLO (Chile) said that, in the Spanish version of the draft text, the word "pueblos" should replace the word "populaciones" in the title of the draft "United Nations declaration on the rights of indigenous peoples".

14. Mr. MÖLLER (Secretary of the Commission) said that the resources required to implement the requests contained in draft resolution E/CN.4/1995/L.62 were limited to conference services in 1995 and would be absorbed within existing resources under section 41 of the programme budget for 1994-1995.

15. Mr. ZHANG Yishan (China), speaking in explanation of position, said that, while it intended to join the consensus on the draft text, his delegation did have reservations with regard to paragraph 10, subparagraph 2, under which existing overall United Nations resources would be used for the establishment of the proposed open-ended working group. The wording implied that resources already allocated for other purposes, such as development, might be used in that context.

16. Mr. SALGADO (Brazil) said that he had reservations with regard to the title of the draft declaration referred to in paragraph 1, which should not prejudice the development of the work of the proposed working group.

17. Draft resolution E/CN.4/1995/L.62, as orally revised, was adopted.

Action taken on draft decisions recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities for adoption by the Commission on Human Rights

Draft decisions 2, 3, 4, 5, 12 and 13

18. The CHAIRMAN said that, as a result of the adoption of draft resolution E/CN.4/1995/L.39, draft decisions 2, 3 and 4, recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, were superseded.

19. As a result of the adoption of draft resolution E/CN.4/1995/L.42, draft decision 5, recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, was superseded.

20. As a result of the adoption of draft resolution E/CN.4/1995/L.61, draft decision 12, recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, was superseded.

21. As a result of the adoption of draft resolution E/CN.4/1995/L.41, draft decision 13, recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, was superseded.

Draft decision 14

22. Mr. MÖLLER (Secretary of the Commission) said that the decision was considered to fall within the scope of mandates of the Economic and Social Council, for which resources had already been provided under section 21 (human rights) of the programme budget for 1994-1995. No additional resources would, therefore, be required for the implementation of the decision.

23. Draft decision 14 was adopted.

Draft decisions 15 and 16

24. The CHAIRMAN said that, as a result of the adoption of draft resolution E/CN.4/1995/L.62, draft decision 15, recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, was superseded.

25. As a result of the adoption of draft resolution E/CN.4/1995/L.45, draft decision 16, recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, was superseded.

Draft decision 14

26. Mr. Möller (Secretary of the Commission) said that the resources required to implement the draft decision were estimated at US\$ 15,600 for 1995, US\$ 15,800 for 1996 and US\$ 16,100 for 1997. Those amounts would be absorbed within the existing resources of the Centre for Human Rights. No additional resources would, therefore, be required for the implementation of the decision. The additional staff requirements would have to be considered in the context of the overall staffing situation of the Centre and were not, therefore, included in the preliminary estimates.

27. Draft decision 17 was adopted.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

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- (b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT
- (c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES
- (d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

(agenda item 10) (continued) (E/CN.4/1995/L.40, L.43, L.44 and L.50-L.57; E/CN.4/1995/2-E/CN.4/Sub.2/1994/56, chap. I, section A, draft resolution III; chap. I, section B, draft decisions 6 and 9)

Action taken on draft decisions recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities for adoption by the Commission on Human Rights

Draft resolution containing an amendment to draft decision 9
(E/CN.4/1995/L.40)

28. Mr. MARUYAMA (Japan), introducing draft resolution E/CN.4/1995/L.40, said that views were divided as to whether it was desirable to elaborate a third optional protocol to the International Covenant on Civil and Political Rights with a view to guaranteeing under all circumstances the right to a fair trial and a remedy. Draft resolution E/CN.4/1995/L.40 thus amended decision 9 of the Sub-Commission to reflect that lack of agreement.

29. He hoped that the draft amendment would be adopted by consensus.

30. Draft resolution E/CN.4/1995/L.40 was adopted.

Draft decision 9

31. Mr. MÖLLER (Secretary of the Commission) said that the decision was considered to fall within the scope of mandates of the Economic and Social Council, for which resources had already been provided under section 21 (human rights) of the programme budget for 1994-1995. No additional resources would, therefore, be required for the implementation of the decision.

32. Draft decision 9, as amended, was adopted.

Draft resolution on the question of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (E/CN.4/1995/L.43)

33. Mr. DENG (Observer for Costa Rica), introducing the draft resolution on behalf of its sponsors, gave a summary of its history and pointed out that, for the first time, the United Nations had an opportunity to establish a mechanism which placed emphasis on prevention and dialogue in seeking to protect the dignity of persons in detention. He hoped that the draft resolution could be adopted by consensus.

34. Mr. MÖLLER (Secretary of the Commission) announced that the delegation of the United States of America and the observers for Bosnia and Herzegovina, Greece, Latvia, South Africa and Uruguay had become sponsors of the draft resolution, which was considered to fall within the scope of mandates of the Economic and Social Council, for which resources were already provided under section 21 (human rights) of the current biennium budget. No additional resources would, therefore, be required for the implementation of the resolution.

35. Draft resolution E/CN.4/1995/L.43 was adopted.

Draft resolution on the right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms (E/CN.4/1995/L.44)

36. Mr. PORTALES (Chile), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Australia, Cuba, Finland, Hungary, Philippines, Poland, Republic of Korea and the United Kingdom and by the observers for Kuwait, Portugal, South Africa and Sweden, said that it was based on a recognition of the inalienable character of human rights. The violation of such rights thus imposed upon States a duty to provide reparations for the damage caused, particularly when the right to life or the physical or mental integrity of persons was affected. The main objective of the draft resolution was to promote the exchange of experience within the framework of international cooperation in the field of human rights.

37. References to international humanitarian law had been omitted from the draft resolution, since more appropriate forums existed within which the international community could address that important subject. The draft resolution focused on the specific field of grave violations of human rights.

38. At the request of the delegation of India, the sponsors had agreed to insert the words "and the Vienna Declaration and Programme of Action" at the end of the first preambular paragraph. He hoped that the draft resolution could be adopted by consensus.

39. Draft resolution E/CN.4/1995/L.44, as orally revised, was adopted.

Draft resolution on the problem of missing persons in the territory of the former Yugoslavia (E/CN.4/1995/L.50)

40. Mr. MADEY (Observer for Croatia), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Austria, Bulgaria, Canada, Egypt, France, Germany, Hungary, Italy, Japan, the United Kingdom and the United States of America and the observers for Afghanistan, Denmark, Ireland, Latvia, Norway, Portugal, Sweden and Tunisia, said that, for the previous three years, his delegation had persistently tried to highlight in the Commission the humanitarian tragedy of the families of persons missing in the war against Croatia and in Bosnia and Herzegovina. If the fate of the victims of the most brutal calamity in recent European history were not resolved, the wounds would never heal and good neighbourly relations could never be established across the borders of new States.

41. It was not the intention of the sponsors to demonize one people or to politicize the question. The mechanism to be used should be humanitarian and non-accusatory in nature. However, those who refused cooperation would be held accountable just as individuals were judged not by their own history but by civilization as a whole.

42. While the sponsors recognized that the special process and the draft resolution could achieve little without the cooperation of all concerned, they nevertheless sent a strong signal of support and compassion. Even if it succeeded in resolving only a single case, the mechanism would have justified its existence.

43. The sponsors wished to make a number of minor revisions to the draft text. The words "special process dealing with the" should be inserted at the beginning of the title of the draft resolution. In the first preambular paragraph, the words "the purpose and principles of" should be deleted. In the fourth preambular paragraph, the words "and the armed conflict" should be inserted after the words "ethnic cleansing". In paragraph 1, the words "and thanks" should be inserted after "commends" and the word "first" inserted before the word "report". Finally, the words "for the cooperation extended to the special process" in paragraph 2 should be replaced by "requests them to continue and expand the cooperation with the special process,". He hoped that the draft resolution, as orally revised, could be adopted by consensus.

44. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Algeria, Bangladesh, Chile, El Salvador, Finland and Malaysia and the observers for Kuwait, Oman, Senegal and Switzerland had become sponsors of the draft resolution, which was considered to fall within the scope of the mandates of the Economic and Social Council, for which resources were already

provided under section 21 (human rights) of the current biennium budget. No additional resources would, therefore, be required for the implementation of the resolution.

45. Draft resolution E/CN.4/1995/L.50, as orally revised, was adopted.

Draft resolution on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers (E/CN.4/1995/L.51)

46. Mr. ROLAND (Observer for Belgium), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Chile, El Salvador, India, Nepal, Philippines and the Republic of Korea and the observers for Latvia, Turkey and Uruguay, said that the draft resolution was the result of a long process of consideration and discussion within both the Sub-Commission and the Commission. The preambular part of the draft resolution listed the main principles which should underpin the independence of the judiciary, jurors and assessors, and lawyers. The protection and promotion of human rights could be achieved only within the framework of the rule of law, which necessarily required an independent and impartial judiciary.

47. At the request of one delegation, the sponsors had decided to delete paragraph 5. He hoped that the draft resolution, as revised, could be adopted without a vote.

48. Mr. MÖLLER (Secretary of the Commission) said that the draft resolution was considered to fall within the scope of mandates of the Economic and Social Council, for which resources were already provided under section 21 (human rights) of the current biennium budget. No additional resources would, therefore, be required for the implementation of the resolution.

49. Draft resolution E/CN.4/1995/L.51, as orally revised, was adopted.

Draft resolution on torture and other cruel, inhuman or degrading treatment or punishment (E/CN.4/1995/L.52)

50. Mr. NIELSEN (Observer for Denmark), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Benin, El Salvador and the Russian Federation and the observers for Latvia, New Zealand, Senegal and Uruguay, said that the text combined the three resolutions on the question of torture which had traditionally been submitted to the Commission. Without sacrificing the gains made in the Commission and other United Nations forums, the text sought to rationalize the resolutions of the Commission without changing the substance of the previous texts.

51. In paragraph 10 of part A, the words "taking into account requests received from" should be deleted and replaced by the words "at the request of". In part B, a new third preambular paragraph should be added to read: "Taking into account General Assembly resolution 49/181 of 23 December 1994". He hoped that the draft resolution, as revised, could be adopted by consensus.

52. Mr. MORA GODOY (Cuba) said his delegation took it that the reference to "the methods of work employed by the Special Rapporteur" in paragraph 6 of

part B of the draft resolution did not signify any obligation on the part of States to accept those methods of work. Since many different methods of work were employed by the various United Nations human rights bodies, it was not necessary for the Commission to approve any particular methods of work.

53. While his delegation would join in the consensus on the draft resolution, it had some difficulties with the way in which the Special Rapporteur and other human rights mechanisms discharged their work with respect to Cuba, particularly since they strayed from their mandates and the objectives for which they had been established.

54. Mr. MÖLLER (Secretary of the Commission) said that the draft resolution was considered to fall within the scope of mandates of the Economic and Social Council, for which resources were already provided under section 21 (human rights) of the current biennium budget. No additional resources would, therefore, be required for the implementation of the resolution.

55. Draft resolution E/CN.4/1995/L.52, as orally revised, was adopted.

Draft resolution on the question of enforced disappearances (E/CN.4/1995/L.53)

56. Mr. HAREL (France), introducing the draft resolution on behalf of its sponsors, said that the report of the Working Group indicated that the practice of enforced disappearances was still prevalent and was aggravated by the impunity enjoyed by many of those responsible for such acts. The Working Group's recommendations were, therefore, particularly useful.

57. The sponsors wished to add a seventh bis preambular paragraph to read: "Taking into account the General Assembly resolution 49/181". A new paragraph 3 bis would read: "Notes that the primary role of the Working Group, as described in its reports, is to act as a channel of communication between the families of the disappeared persons and the Governments concerned, with a view to ensuring that sufficiently documented and clearly identified individual cases are investigated and to ascertain whether such information falls under its mandate and contains the required elements". In paragraph 14, the words "investigate and/or" should be inserted after the words "efforts of Governments which". In paragraph 15, the words "to take effective measures" should be replaced by the words "to consider taking effective measures". Paragraph 19 should be amended to read: "Invites again the Working Group to identify obstacles to the realization of the Declaration, to recommend ways of overcoming those obstacles and to pursue in this respect its dialogue with the Governments and institutions concerned;". Lastly, in paragraph 24, the word "Commends" should be replaced by the words "Takes note of". He hoped that the draft resolution, as revised, could be adopted by consensus.

58. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Benin, Cuba, Republic of Korea, Romania and the Russian Federation and the observers for Greece, Latvia and Luxembourg had joined the sponsors of the draft resolution, which was considered to fall within the scope of mandates of the Economic and Social Council, for which resources were already provided under section 21 (human rights) of the current biennium budget. No additional resources would, therefore, be required for the implementation of the resolution.

59. Draft resolution E/CN.4/1995/L.53, as orally revised, was adopted.

Draft resolution on staff members of the United Nations and of the specialized agencies in detention (E/CN.4/1995/L.54)

60. Mr. COELHO (Observer for Portugal), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Benin, Egypt, El Salvador, Netherlands and the Russian Federation and by the observers for Denmark, Latvia and Madagascar, said that the text reflected new developments on the subject, in particular the decision of the General Assembly contained in its resolution 49/59 adopting and opening for signature the Convention on the Safety of United Nations and Associated Personnel.

61. The draft resolution emphasized the importance of the provisions relating to the privileges and immunities concerning United Nations staff members, experts and their families, with particular reference to respect for their immunity from the legal process and personal arrest or detention.

62. In order to accommodate some concerns expressed and suggestions made at a later stage, the sponsors wished to modify paragraph 6, subparagraph (e) to read: "To ensure the speedy release of the United Nations staff members, experts and their families who are arrested or detained contrary to their immunities;". He hoped that the draft resolution could be adopted without a vote.

63. The draft resolution, as orally revised, was adopted.

Draft resolution on the right to freedom of opinion and expression (E/CN.4/1995/L.56)

64. Mr. LAURIN (Canada), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Australia, Benin, Canada, El Salvador, France, Germany, Hungary, India, Italy, Japan, Nicaragua, Poland, Romania, the Russian Federation, the United Kingdom, the United States of America and Venezuela and the observers for Argentina, Czech Republic, Denmark, Honduras, Ireland, Latvia, Norway, Portugal, Slovakia and Uruguay, said that it built on the previous year's resolution by recognizing the importance of the right to seek or have access to information, by adding translators and distributors to the list of professionals in the field of information, by urging the Special Rapporteur to bring situations of serious concern to the attention of the High Commissioner for Human Rights, and by inviting the Special Rapporteur to pay particular attention to the situation of women and the relationship between effective implementation of the right to freedom of opinion and expression and incidents of discrimination based on sex.

65. He drew attention to a number of changes that had been made to the draft resolution. In the penultimate preambular paragraph, the word "translators," should be inserted before the word "publishers". A new paragraph 2 should be inserted to read: "2. Welcomes also the Special Rapporteur's statement that the right to seek or have access to information is one of the most essential elements of freedom of speech and expression". The remaining operative paragraphs would be renumbered accordingly.

66. In new paragraph 4, the word "effectively" should be inserted after the word "mandate". In new paragraph 8, the word "translators" should again be inserted before the word "publishers". In new paragraph 9, the words "as noted in the fourth report of the Working Group on Arbitrary Detention (E/CN.4/1995/31 and Add.1-4)" should be deleted. In new paragraph 11, the words ", within the framework of his mandate," should be inserted after the words "Urges the Special Rapporteur", and the words "or where focusing attention on the situation might prevent a deterioration of the situation" deleted. In new paragraph 15, the word ", representatives" should be inserted after the words "working groups". In new paragraph 16, the word "requested" should be replaced by the words "necessary in order to permit him to fully carry out his mandate". Lastly, in new paragraph 17, the words "on country situations" should be deleted. He hoped that the draft resolution could be adopted without a vote.

67. Mr. MÖLLER (Secretary of the Commission) said that the draft resolution was considered to fall within the scope of mandates of the Economic and Social Council, for which resources were already provided under section 21 (human rights) of the current biennium budget. No additional resources would, therefore, be required for the implementation of the resolution.

68. Draft resolution E/CN.4/1995/L.56, as orally revised, was adopted.

Draft resolution on human rights in the administration of justice, in particular children and juveniles in detention (E/CN.4/1995/L.57)

69. Mr. STROHAL (Austria), introducing the draft resolution on behalf of its sponsors, said that a resolution on the subject had traditionally been submitted by his delegation for a number of years. The current draft resolution paid particular attention to the question of juveniles in detention; it also drew attention to the recommendations of the expert group meeting on children and juveniles in detention, held at Vienna from 30 October to 4 November 1994 at the invitation of his Government. The resolution also urged the High Commissioner for Human Rights to strengthen system-wide coordination and develop strategies for an effective realization of programmes in that field.

70. Three minor changes had been made to the draft text. In the last preambular paragraph, the word "paramount" should be replaced by the words "a primary consideration". At the end of paragraph 4, after the words "programmes of advisory services and technical assistance" the words "in the field of human rights" should be added. In paragraph 10, the words "to ensure" should be deleted, and the word "reflected" replaced by the words "taken into account". He apologised to those sponsors he had been unable to contact in connection with the changes, and hoped that the draft resolution could be adopted without a vote.

71. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Australia, El Salvador, Finland, Philippines, the Republic of Korea, Romania and Sri Lanka and the observers for Latvia, Madagascar, New Zealand, Slovakia, South Africa and Uruguay had become sponsors of the draft resolution.

72. Draft resolution E/CN.4/1995/L.57, as orally revised, was adopted.

Draft resolution III, recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, on the question of human rights and states of emergency (E/CN.4/1995/2-E/CN.4/Sub.2/1994/56, chap. I, section A)

73. The CHAIRMAN invited the Commission to consider draft resolution III recommended by the Sub-Commission for adoption.

74. Mr. MÖLLER (Secretary of the Commission) said that the resources required to implement the request contained in the draft resolution were estimated at US\$ 57,700 for 1995. That amount would be absorbed within the existing resources of the Centre for Human Rights. No additional resources would therefore be required for the implementation of the resolution.

75. Draft resolution III, recommended by the Sub-Commission, was adopted.

Draft decision 6, recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, on recognition of gross and large-scale violations of human rights as an international crime (E/CN.4/1995/2-E/CN.4/Sub.2/1994/56, chap. I, section B)

76. The CHAIRMAN invited the Commission to consider draft decision 6 recommended by the Sub-Commission for adoption.

77. Mr. STEEL (United Kingdom) said that, while accepting that gross and large-scale violations of human rights were criminal acts and, as such, should be severely punished, a number of delegations had difficulty with the proposal to recognize such acts as international crimes.

78. The International Law Commission had, for many years, been dealing with the question of international criminal responsibility; and the length of its deliberations was an indication of the complexity of the subject. The International Law Commission and the Sixth Committee of the General Assembly were the United Nations bodies with the necessary expertise in questions of international law, and to appoint a special rapporteur to prepare a report on the recognition of gross and large-scale violations of human rights perpetrated on the orders of Governments or sanctioned by them as an international crime would be to invite duplication at a less exhaustive level of the work already being done by those bodies.

79. He thus proposed that draft decision 6 should be amended to read: "The Commission on Human Rights, noting resolution 1994/28 of 26 August 1994 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, requests the Sub-Commission to reconsider its recommendation to appoint a special rapporteur to prepare a report on the recognition of gross and large-scale violations of human rights, perpetrated on the orders of Governments or sanctioned by them, as an international crime."

80. Mr. HELLER (Mexico) said that his delegation shared the concern expressed by the representative of the United Kingdom. He proposed that, as a further clarification, the words "bearing in mind the work being done by other United Nations bodies on this issue" should be inserted at the end of the United Kingdom amendment.

81. Mr. STEEL (United Kingdom) accepted the Mexican sub-amendment.
82. The United Kingdom amendment was adopted.
83. Draft decision 6 of the Sub-Commission, as orally amended, was adopted.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS,
INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

- (a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
- (b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS
- (c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS
- (d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS

(agenda item 11) (continued) (E/CN.4/1995/L.58-L.60 and L.63-L.65)

Draft resolution on human rights and terrorism (E/CN.4/1995/L.58)

84. Mr. URRUTIA (Peru), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Cuba, Egypt and Sri Lanka and the observer for Turkey, drew attention to its main features and pointed out that its content was without prejudice to the right of peoples under colonial or alien domination or foreign occupation to take any legitimate action in accordance with the Charter and the relevant provisions of the Lima Declaration. He hoped that the draft resolution could be adopted without a vote.

85. Mrs. SABHARWAL (India) said that her delegation wished to become a sponsor of the draft resolution.

86. Draft resolution E/CN.4/1995/L.58 was adopted.

Draft resolution on the protection of human rights in the context of human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS)
(E/CN.4/1995/L.59)

87. Mr. KUZNIAR (Poland), introducing the draft resolution on behalf of its sponsors, said that it was the continuation of previous resolutions on the subject adopted by the Commission and took into account a number of important developments that had occurred over the past year. He drew attention to a change in the text of the draft resolution. The thirteenth preambular paragraph should read: "Alarmed at discriminatory laws and policies and the emergence of new forms of discriminatory practices which deny people living with HIV/AIDS, their families and associates as well as high-risk groups, enjoyment of their fundamental rights and freedoms". He hoped that, as in previous years, the draft resolution could be adopted without a vote.

88. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of El Salvador and Italy and the observers for the Czech Republic, Greece and Madagascar had become sponsors of the draft resolution.

89. Mr. HORMEL (United States of America), explaining his delegation's position on the draft resolution, said that the United States did not recognize the existence of any category of rights specific only to persons affected by HIV or AIDS. The United States was, however, committed to promoting the human rights of persons with HIV and AIDS and condemned all forms of discrimination against such persons as well as against persons assumed to be at risk of HIV infection. Education on methods for the prevention of infection, conducted in an atmosphere of sensitivity and tolerance, should be a key element of any prevention strategy. His Government did not support any efforts to fight the spread of HIV and AIDS which incorporated discriminatory measures of any sort or violated the rights of any individual and took it that the draft resolution was consistent with that position.

90. Draft resolution E/CN.4/1995/L.59, as orally revised, was adopted.

Draft resolution on human rights and unilateral coercive measures
(E/CN.4/1995/L.60)

91. Mr. PEREZ NOVOA (Cuba), introducing the draft resolution which was consistent with the one adopted by the Commission in 1994, said that it sought to make a modest contribution to the efforts of various organizations within the United Nations system to put an end to unilateral coercive measures, which were in clear contradiction with international law and the Charter of the United Nations. It was unacceptable that some countries, using their predominant position in the world economy, should continue to adopt trade restrictions, blockades and embargoes against developing countries with the purpose of preventing them from exercising their right to self-determination. The draft resolution reaffirmed in particular that essential goods, such as food and medicines, should not be used as a tool for political pressure and that the adoption of unilateral coercive measures constituted a violation of human rights.

92. At the request of several delegations, the first word in paragraph 4, "Condemns", had been replaced by "Rejects".

93. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Angola, China and the Sudan and the observers for Iraq and the Libyan Arab Jamarihiya had become sponsors of the draft resolution.

94. Mr. EICHER (United States of America), speaking in explanation of vote before the vote, said that the draft resolution had no place in the Commission, because it dealt first and foremost with commercial relations among States, and not with human rights. It should not be confused with a text which was presented in the plenary of the General Assembly outside the human rights context.

95. The draft resolution sought to undercut a strong and successful tradition in the United Nations. In fact, so-called coercive measures, such as economic sanctions, had been a powerful and effective tool for promoting human rights,

of which recent history was replete with examples: in South Africa, economic sanctions had played an important part in bringing about the end of apartheid. The same was true in the case of Rhodesia. Economic measures had also been vital in applying pressure to Serbia to end its support for egregious human rights violations in Bosnia and Herzegovina. In Haiti, economic pressure had created the conditions needed to force the military regime to relinquish power and allow a return to democracy.

96. A vote in favour of the draft resolution would be a vote against the successful approach taken in the cases he had mentioned. The draft resolution's aim was to strip the United Nations and its Member States of one of the most effective peaceful instruments at their disposal for promoting human rights. Consequently, his delegation urged all the members of the Commission to vote against the draft resolution.

97. At the request of the representative of the United States of America, a vote was taken by roll-call on the draft resolution on human rights and unilateral coercive measures (E/CN.4/1995/L.60).

98. India, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Angola, Brazil, Chile, China, Colombia, Cuba, Ecuador, Egypt, Ethiopia, India, Indonesia, Malaysia, Mauritania, Mexico, Nepal, Nicaragua, Pakistan, Peru, Sri Lanka, Sudan, Togo, Venezuela, Zimbabwe.

Against: Australia, Austria, Bulgaria, Canada, Finland, France, Germany, Hungary, Italy, Japan, Netherlands, Poland, Republic of Korea, Romania, Russian Federation, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Bangladesh, Benin, Bhutan, Cameroon, Côte d'Ivoire, Dominican Republic, El Salvador, Gabon, Guinea-Bissau, Malawi, Mauritius, Philippines.

99. Draft resolution E/CN.4/1995/L.60, as orally revised, was adopted by 24 votes to 17, with 12 abstentions.

Draft resolution on regional arrangements for the promotion and protection of human rights (E/CN.4/1995/L.63)

100. Mr. ROLAND (Observer for Belgium), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Australia, Canada, El Salvador, France, Japan, Nicaragua, Republic of Korea, Togo, United Kingdom of Great Britain and Northern Ireland, Venezuela and Zimbabwe and the observers for Malta and the former Yugoslav Republic of Macedonia, said that for a number of years, his delegation and several others had repeatedly stressed how worthwhile it would be for regional and international institutions active in promoting human rights to achieve a better coordination of their efforts. The draft resolution had been drawn up with that in mind.

101. Certain changes to the text of the draft resolution had been made at the request of several delegations: the phrase "in particular the setting up of a regional or subregional human rights arrangement in Asia" in paragraph 2 and the phrase "including government officials engaged in the administration of justice" in paragraph 7 should be deleted, and the word "agreements" in paragraph 9 should be replaced by the word "arrangements". He hoped that, as in the past, the draft resolution could be adopted without a vote.

102. Draft resolution E/CN.4/1995/L.63, as orally revised, was adopted.

Draft resolution on the Decade for Human Rights Education (E/CN.4/1995/L.64)

103. Mr. DENG (Observer for Costa Rica), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Algeria, Angola, Egypt and Mauritania and the observers for Jordan and Malawi, mentioned the salient points of the text. He drew attention to a slight change in the text: in the fifth preambular paragraph, the words "indigenous peoples" should be replaced by the words "indigenous people".

104. In order to assist in achieving the success of the Decade, his Government planned to host a workshop at the end of 1995 to train human rights educators, who would play a paramount role in disseminating experience and activities, both at national and thematic levels.

105. He hoped that the draft resolution would be adopted by consensus.

106. Draft resolution E/CN.4/1995/L.64, as orally revised, was adopted.

Draft resolution on regional arrangements for the promotion and protection of human rights in the Asian and Pacific region (E/CN.4/1995/L.65)

107. Mr. NYUNG-CHUL HAHM (Republic of Korea), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Canada and France and the observers for Afghanistan, Mongolia and South Africa, said that the text, in line with the resolutions previously adopted by the Commission, took into account new developments and decisions concerning activities in the field of human rights in the Asia and Pacific region. Having reviewed the draft resolution's main points, he said he hoped that it could be adopted by consensus.

108. Mr. MÖLLER (Secretary of the Commission) said that the draft resolution was considered to fall within the scope of the mandates of the Economic and Social Council for which resources were already provided under section 21 (human rights) of the biennium budget. No additional resources would therefore be required for the implementation of the resolution.

109. Draft resolution E/CN.4/1995/L.65 was adopted.

The meeting was suspended at 6 p.m.



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COMMISSION ON HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 53rd MEETING
(SECOND PART) *

Held at the Palais des Nations, Geneva,
on Friday, 3 March 1995, at 6.35 p.m.

Chairman: Mr. BIN HITAM (Malaysia)

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- (a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS
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* The summary record of the first part of the meeting appears as
document E/CN.4/1995/SR.53.

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Any corrections to the records of the public meetings of the Commission
at this session will be consolidated in a single corrigendum, to be issued
shortly after the end of the session.

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- (a) INDIGENOUS ISSUES (continued)

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The meeting was resumed at 6.35 p.m.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS,
INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

- (a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS
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(agenda item 11) (continued) (E/CN.4/1995/L.67, E/CN.4/1995/L.68,
E/CN.4/Sub.2/1994/56)

Draft resolution on development of public information activities in the field
of human rights, including the World Public Information Campaign for Human
Rights (E/CN.4/1995/L.67)

1. Mr. TORELLA DI ROMAGNANO (Italy), introducing the draft resolution on
behalf of the sponsors, said that following consultations with various
delegations he had a number of amendments to propose to the text. In the
first preambular paragraph, the words "principles and" should be added before
"purposes"; in the third preambular paragraph, the word "catalytic" should be
replaced by "significant", and the words "national and regional" deleted; and
in the fourth preambular paragraph, "Acknowledging" should be replaced by
"Taking note of".

2. Operative paragraph 5 should be replaced by "Takes note of the efforts of
the Department of Public Information with respect to computer-accessible
information on all aspects of human rights and of the Centre for Human Rights
to establish a database for the promotion of all aspects of human rights".
Operative paragraph 7 should be replaced by "Urges the Department of Public
Information to make full use of resources available for this purpose to
produce factual information materials on all aspects of human rights in all
regions;". Operative paragraph 12 should be replaced by "Requests the High
Commissioner for Human Rights to ensure close cooperation between the Centre
for Human Rights and the Department of Public Information in the
implementation of the aims established for the World Public Information
Campaign for Human Rights and coordination with the United Nations
Educational, Scientific and Cultural Organization, regarding education for
human rights, taking into account the launching by the United Nations
General Assembly of the United Nations Decade for Human Rights Education;".

3. He reviewed the substance of paragraphs 3, 10, 12 and 13 and noted that
it was proposed that the issue should be discussed on a biennial basis, with a
view to streamlining the work of the Commission. He expressed the hope that
the draft resolution would be adopted without a vote.

4. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Angola, Argentina, Benin, Côte d'Ivoire, Cyprus, Ecuador, El Salvador, Hungary, Portugal, Senegal and Uruguay had also become sponsors of the draft resolution. The draft resolution was considered to fall within the scope of mandates of the Economic and Social Council, for which resources were already provided under section 21 of the current biennium budget. No additional resources would, therefore, be required for the implementation of the resolution, if adopted.

5. The CHAIRMAN said he took it that the Commission wished to adopt the draft resolution without a vote.

6. It was so decided.

Draft resolution on national institutions for the promotion and protection of human rights (E/CN.4/1995/L.68)

7. Ms. WENSLEY (Australia), introducing the draft resolution on behalf of its sponsors, said it recognized the significant role played by national institutions in promoting and protecting human rights, and reaffirmed the importance of developing effective, independent and pluralistic national institutions for the purpose. It emphasized the need to find an appropriate form of participation by national institutions in relevant United Nations meetings on human rights, and requested the Secretary-General to invite Member States which had not yet done so to inform him of their views on the matter, so that they could be included in his report to the Commission at its fifty-second session.

8. She noted that the word "can" in paragraph 14 should be replaced by "may", and expressed the hope that the draft resolution would be adopted without a vote.

9. Mr. MÖLLER (Secretary of the Commission) stated that the delegations of Austria, Canada, France, Greece, Indonesia, Latvia, Malawi, Mexico, Mongolia, Russian Federation, Senegal, Slovakia, Spain and Sweden had also become sponsors of the draft resolution. The draft resolution, if adopted, would have no budgetary implications.

10. Mr. EL KARIE (Sudan) said it was important to his delegation that the Arabic text of paragraph 14 should be brought into line with the English text as amended.

11. The CHAIRMAN said he took it that the Commission wished to adopt the draft resolution without a vote.

12. It was so decided.

Decisions submitted by the Sub-Commission (E/CN.4/1994/56)

Traditional practices affecting the health of women and children (Decision 8)

13. Mr. MÖLLER (Secretary of the Commission) said that the decision, if adopted, would have no budgetary implications.

14. The CHAIRMAN said he took it that the Commission wished to adopt the decision without a vote.

15. It was so decided.

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 21) (continued)
(E/CN.4/1995/L.49, L.71, L.72, L.77, L.79 and L.85)

Draft resolution on assistance to Guatemala in the field of human rights
(E/CN.4/1995/L.49)

16. Mr. HELLER (Mexico), introducing the draft resolution on behalf of the Group of Friendly Countries comprising Colombia, Mexico, Norway, Spain, the United States of America and Venezuela, as well as the other sponsors, said it was based on the report of the independent expert Mrs. Monica Pinto (E/CN.4/1995/15), and took into account the evolution of the situation in Guatemala as well as the negotiations between the Government and the Unidad Revolucionaria Nacional Guatemalteca. After noting that the Government's commitment to guaranteeing full respect for human rights had been reflected in the adoption of a series of legal and institutional reforms, he briefly reviewed the various provisions contained in the operative part of the draft resolution.

17. Mr. MÖLLER (Secretary of the Commission) said that the delegations of Canada, Denmark, France, Nicaragua and Peru had also become sponsors of the draft resolution.

18. Mr. MARROQUIN (Observer for Guatemala) thanked the Group of Friendly Countries and the other sponsors for their efforts in preparing the draft resolution, which he hoped could be adopted without a vote. His Government, which would continue to do all it could to overcome existing obstacles - chiefly of a structural nature - to the full enjoyment of human rights, was determined to ensure that not only civil and political rights, but also economic, social and cultural rights were respected.

19. His Government's priorities were to consolidate democracy, strengthen the rule of law, achieve peace and reconciliation and to accelerate the country's harmonious development in a context of complete social justice with a view to eliminating the extreme poverty afflicting the majority of the population, abolishing the marginalization and social exclusion of which indigenous populations were the primary targets and ensuring respect for human rights. Guatemala would continue to cooperate with the Commission, the independent expert and the United Nations Mission for Guatemala (MINUGUA) and to take their recommendations into account. It was a democratic country open to scrutiny and to international cooperation on human rights, as the international community had already had occasion to observe.

20. Mr. MÖLLER (Secretary of the Commission) said that the draft resolution would have no budgetary implications if adopted.

21. The CHAIRMAN said he took it that the Commission wished to adopt the draft resolution without a vote.

22. It was so decided.

Draft resolution on the situation of human rights in Togo (E/CN.4/1995/L.66)

23. Mr. HAREL (France) said his delegation wished to withdraw the draft resolution in the interest of consensus, and on the understanding that the other draft resolution on the same subject (E/CN.4/1995/L.71) would be amended by the sponsors.

Draft resolution on the situation of human rights in Togo (E/CN.4/1995/L.71)

24. Mr. KPOTSRA (Togo) recalled that, in March 1993, the Commission had adopted a resolution deeply deploring the acts of violence that had occurred in Togo. The following year, the Commission had adopted resolution 1994/78, in which it welcomed the positive developments in Togo and the progress achieved in the democratization process, and called on the authorities to take a number of specific measures. Those resolutions formed the background for the report of the Secretary-General on the situation of human rights in Togo (E/CN.4/1995/16) referred to in paragraph 1 of the draft resolution.

25. The draft had been prepared on the initiative of the Group of African States and was sponsored by Cameroon, Côte d'Ivoire, Gabon, Guinea-Bissau, Mauritania, Nigeria, Senegal and Togo. Following lengthy negotiations with representatives of the European Union, it was proposed that paragraph 9 should be amended to read: "Requests the Secretary-General to submit to the Commission at its fifty-second session, under the agenda item entitled 'Advisory services in the field of human rights', a report on the implementation of the present resolution, with a view to concluding consideration of this question."

26. He thanked the sponsors and the African Group for their solidarity as well as the representatives of the European Union for their spirit of compromise. It was to be hoped that the Government of Togo would benefit from the assistance of all friends of that country in strengthening the institutions to be set up in furtherance of the resolution.

27. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Angola, Cameroon, Côte d'Ivoire, Malawi, Mauritania, Senegal and Zimbabwe had also become sponsors of the draft resolution, and that Benin had withdrawn as a sponsor.

28. Mr. HAREL (France) said the European Union and Hungary had joined in the consensus on the draft resolution because it had been amended to meet their concerns. The cooperation envisaged between the Centre for Human Rights and Togo would surely be productive, and it was to be hoped that the human rights situation in that country would accordingly improve.

29. Mr. CAPO-CHICHI (Benin) said that his delegation welcomed the compromise reached on the draft resolution, as well as the spirit of cooperation shown in the consultations between Togo and the European Union.

30. The CHAIRMAN said he took it that the Commission wished to adopt the draft resolution, as amended, without a vote.

31. It was so decided.

Draft resolution on advisory services and the Voluntary Fund for Technical Cooperation in the Field of Human Rights (E/CN.4/1995/L.72)

32. Mr. HELLBACH (Germany), introducing the draft resolution on behalf of the sponsors, said that over the past years there had been a steep increase in the demand for advisory services and technical cooperation. The sponsors welcomed the interest shown by Governments in cooperating with the Centre for Human Rights, for it reflected increased awareness of the issue of human rights which was due in large measure to the commendable activities of the High Commissioner for Human Rights.

33. Neither advisory services nor the Voluntary Fund had kept pace with new demands for assistance, however. The Centre lacked personnel, up-to-date equipment and adequate financial resources, and therefore the draft resolution urged the Secretary-General to allocate more human and financial resources to advisory services so they would be able to cope with the substantially increased demand. The Board of Trustees created only a year ago for the Voluntary Fund was doing a commendable job - it had done much to increase the transparency of the activities carried out under the Fund. The sponsors encouraged the Board to continue its efforts and hoped it would help to attract new donors.

34. The draft resolution was the result of intensive consultations, the latest of which had resulted in a request for a few amendments. In the hope that the resolution could be adopted by consensus, the sponsors therefore proposed the following changes. In the tenth preambular paragraph, the words "in any way" should be deleted and the word "scrutiny" replaced by "monitoring". The existing reference to "monitoring" should be deleted.

35. Mr. MÖLLER (Secretary of the Committee) said that the delegations of Australia, Bolivia, Bulgaria, the Czech Republic, Ethiopia, Greece, Madagascar, Malawi, New Zealand, the Republic of Korea, Senegal, Sweden and the United States of America had also become sponsors of the draft resolution. No additional resources would be required for implementation should the draft resolution be adopted.

36. Mr. MORA GODOY (Cuba) said that many of the resolutions adopted by the Commission made reference to advisory services. However, as the draft resolution under discussion was entirely and specifically devoted to such services, his delegation wished to place on record its understanding that the draft resolution was the only appropriate framework for the provision of resources for advisory services and the Voluntary Fund.

37. Mr. ELKARIB (Sudan) said he wished to record his delegation's reservations on paragraph 11 of the draft resolution, which it interpreted as tying the provision of technical assistance under the Voluntary Fund to cooperation with non-governmental human rights organizations. Such organizations were not clearly defined, nor was any reference made to national human rights bodies.

38. Mrs. SABHARWAL (India) said her delegation had serious reservations about the amendments proposed to the tenth preambular paragraph, but in view of the importance it attached to advisory services, it would not block the consensus.

39. The CHAIRMAN said that he took it that the Commission wished to adopt the draft resolution, as amended, without a vote.

40. It was so decided.

Draft resolution on assistance to States in strengthening the rule of law
(E/CN.4/1995/L.77)

41. Mr. LINDGREN ALVES (Brazil), introducing the draft resolution on behalf of the sponsors, said that paragraph 6 should be amended. The words "reiterates the" and "by the General Assembly too" should be deleted, and the word "request" changed to "Requests". Moreover, the words "assistance to States that request such assistance for" should be replaced by "means to strengthen the capacity of the Centre for Human Rights to provide assistance to".

42. Since well before the World Conference on Human Rights, Brazil had been stressing the need to establish a comprehensive programme with sufficient funds to assist States in implementing national projects to strengthen institutions of the rule of law. That idea was reflected in paragraph 69 of the Vienna Programme of Action.

43. According to a report submitted by the Secretary-General to the forty-ninth session of the General Assembly, such a programme already existed: it was the programme of advisory services of the Centre for Human Rights. Yet that programme lacked the means, particularly in terms of capital assistance funds, to provide effective aid to States for projects that involved any kind of investment. The sponsors hoped the draft resolution would be adopted by consensus.

44. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Australia, Cuba, Greece, India, Malawi, Nepal and Uruguay had also become sponsors of the draft resolution.

45. The CHAIRMAN said he took it that the Commission wished to adopt the draft resolution, as amended, without a vote.

46. It was so decided.

Draft resolution on the situation of human rights in Cambodia
(E/CN.4/1995/L.79)

47. Ms. WENSLEY (Australia), introducing the draft resolution on behalf of the sponsors, described it as welcoming the efforts being made by the Government of Cambodia to promote and protect human rights. It identified a number of areas of concern, however, and encouraged the Government to continue its efforts to improve the human rights situation, especially by investigating thoroughly allegations of human rights abuse and by prosecuting those found guilty. The draft was the product of detailed consultations, and she thanked all those involved, including the Cambodian delegation, for their thoughtful contributions and commitment to reaching agreement. The text was an important

further step in assisting the Government of Cambodia and in improving the enjoyment of human rights by the people of Cambodia. The sponsors hoped it would be adopted without a vote.

48. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Ireland, Italy, Japan, New Zealand, Switzerland and the United Kingdom had also become sponsors of the draft resolution. No additional resources would be required for implementation should the draft resolution be adopted.

49. The CHAIRMAN said he took it that the Commission wished to adopt the draft resolution without a vote.

50. It was so decided.

Draft resolution on assistance to Somalia in the field of human rights
(E/CN.4/1995/L.85)

51. Mr. DI ROMAGNANO (Italy), introducing the draft resolution, said that the words "upon request" should be added after "a programme of advisory services for Somalia" in paragraph 3. The draft resolution recognized the need for the people of Somalia themselves to achieve a peaceful political solution to the crisis with the assistance of the international community, and requested the Centre for Human Rights through its Independent Expert to consider ways of establishing a programme for Somalia which would, wherever possible, make use of the existing presence of the United Nations. He hoped that the draft resolution would, as in previous years, be adopted by the Commission without a vote.

52. Mr. MÖLLER (Secretary of the Commission) said that Finland had also become a sponsor of the draft resolution. It was considered to fall within the scope of the mandates of the Economic and Social Council, for which resources were already provided under section 21 of the current biennium budget. No additional resources would, therefore, be required for the implementation of the draft resolution, if adopted.

53. The CHAIRMAN said he took it that the Commission wished to adopt the draft resolution, as amended, without a vote.

54. It was so decided.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS,
INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS

(agenda item 11) (continued) (E/CN.4/1995/L.81)

Draft resolution on internally displaced persons (E/CN.4/1995/L.81)

55. Mr. STROHAL (Austria) said that the following amendments should be made to the draft resolution.

56. The addition of a new sixth preambular paragraph reading "Also bearing in mind the same General Assembly resolution noting that, in a number of instances, the internally displaced are present alongside refugees, returnees or a vulnerable local population, in situations where it is neither reasonable nor feasible to treat the categories differently in responding to their needs for assistance and protection".

57. The addition of a new seventh preambular paragraph reading "Welcoming the call by the General Assembly for a more concerted response by the international community to the needs of internally displaced persons, while emphasizing that activities on their behalf must not undermine the institution of asylum".

58. In the eighth (formerly seventh) preambular paragraph, the replacement of the words "a global strategy" by "global strategies".

59. In paragraph 7, the replacement of "calls upon" by "invites" and, in the last line, of "the extent to which his recommendations have been acted upon" by "measures taken thereon".

60. In paragraph 9, the addition of "the United Nations Children's Fund, the United Nations Development Fund for Women" after "the United Nations Development Programme".

61. Lastly, paragraphs 9 and 10 should be combined by adding "and" at the end of paragraph 9.

62. Mr. MÖLLER (Secretary of the Commission) said that the Russian Federation, Uruguay, Denmark, the Republic of Korea, the United States, Ireland and the Netherlands had also become sponsors of the draft resolution.

63. In explanation of the budgetary implications of the draft resolution, as required under rule 28 of the rules of procedure, he said that the resources required to implement the requests contained in the draft resolution were estimated at US\$ 18,600 for 1995, US\$ 18,900 for 1996 and US\$ 19,200 for 1997. Any additional staffing requirements would have to be considered in the light of the Centre's overall staffing situation and had therefore not been included in the preliminary estimates.

64. Mr. ELKARIE (Sudan) said that his delegation wished to express reservations at the apparent failure of the draft resolution to give due weight to the principle that internally displaced persons had to be provided with assistance in cooperation with the State concerned.

65. The CHAIRMAN said he took it that the Commission wished to adopt the draft resolution, as amended, without a vote.

66. It was so decided.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF
MINORITIES ON ITS FORTY-SIXTH SESSION:

(a) INDIGENOUS ISSUES

(agenda item 19) (continued) (E/CN.4/1995/L.46)

Draft resolution on human rights and disability (E/CN.4/1995/L.46)

67. Mr. HYNES (Canada) said that paragraph 2 of the draft resolution should be deleted and the subsequent paragraphs renumbered accordingly. Moreover, the words "in the Commission on Social Development" should be added after the word "indicator" in paragraph 10 (formerly para. 11).

68. He hoped that, as a result of those changes, the Commission would be able to adopt the draft resolution by consensus.

69. Mr. MÖLLER (Secretary of the Commission) said that the delegations of Latvia, Israel, Sweden, Greece, Peru, Nicaragua, Ethiopia and Iraq had also become sponsors of the draft resolution.

70. The CHAIRMAN said he took it that the Commission wished to adopt the draft resolution, as amended, without a vote.

71. It was so decided.

72. The CHAIRMAN noted that the Commission had thus completed its consideration of agenda item 19.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART
OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT
COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(agenda item 12) (continued)

73. Mr. AROCHA (Venezuela) noted that, in a world of renascent nationalism and conflicts brought about by the collapse of the old bipolar world order, it was vitally important that the international community should continue to place human rights and fundamental liberties at the centre of its concerns. The new world order posed challenges to received ideas of nationality and sovereignty, and there was a need to reconcile fundamental principles such as self-determination and non-intervention with supranational imperatives.

74. The urgency of the human rights issue was now greater than ever, but there was reason to hope that the international community, through negotiations, would respond to the new situation and resolve existing problems by consensus. That would require multilateral diplomacy attuned to the structural changes now taking place in the international system. The Commission's role in such efforts was crucial, as was that of the establishment of a universal culture of human rights.

75. Venezuela was resolute in its commitment to such efforts and had made the defence of human rights a pillar of its foreign policy. Its diplomacy in that area was characterized by a flexible and pragmatic approach with the stated aim of achieving the most workable solutions. In particular, it considered that the Commission should try to adopt resolutions and decisions of the most consensual character possible so as to allow full implementation and ensure the cooperation of the Government concerned.

76. Another cornerstone of Venezuelan foreign policy, and one intimately connected with human rights, was the extension of democracy to all peoples, and especially to those of Latin America, since human rights were best protected in participative systems of government equipped with the mechanisms needed to defend fundamental liberties. That policy had led Venezuela to become involved in peace negotiations in countries such as El Salvador, Guatemala and Haiti. Venezuela particularly welcomed the return of constitutional government to Haiti, fully supported the Haitian authorities in their efforts to introduce the reforms needed to protect human rights, and endorsed the proposal that the High Commissioner for Human Rights should set up a coordinated human rights programme in that country. In collaboration with other countries of the region, it had drafted a resolution that reflected the positive developments in the situation in Haiti and the assumption that the Commission should continue to monitor events in that country from an optimistic and constructive stand-point.

77. Democracy, human rights and development were all interdependent, and it was no longer possible to sustain any form of development on the basis of social and political exclusion. The Government's efforts were focused on the need to strengthen participative democracy, to avoid the errors of the past and to be guided in any development plan by human needs and the full realization of human rights.

78. Mr. LINDGREN ALVES (Brazil) said that his delegation had on numerous occasions drawn the Commission's attention to the need to review both the form and content of agenda item 12. Given the volume of reports, the range of human rights violations to be considered and a long list of speakers, the Commission's efficiency was being seriously jeopardized. Not only should its agenda be reviewed, but the way it dealt with violations of human rights should be reappraised.

79. It was clear from the reports submitted to the Commission that most situations involving violations were attributable to war and internal turmoil. It was a hopeful sign, however, that amid such confusion in the world, the international community was still striving to devise new ways to deal with various horrors, such as genocide in Rwanda and ethnic cleansing in Bosnia and Herzegovina. The preventive efforts of the High Commissioner for Human Rights, through the establishment of advisory units of the Centre for Human Rights in Rwanda and neighbouring countries deserved the international community's full support and encouragement.

80. Similarly, it was encouraging to note that some situations that had been on the agenda for many years had undergone positive changes since the Commission's fiftieth session, Haiti and other Central American countries, particularly El Salvador, being cases in point.

81. However, despite the goodwill that had been shown by the international community at the World Conference on Human Rights in Vienna in 1993, and its adoption by consensus of the Vienna Declaration and Programme of Action, some Governments were once again avoiding international monitoring and refusing to cooperate with the special rapporteurs appointed by the Commission.

82. One of the most important contributions made by the World Conference on Human Rights had been to recognize that democracy, development and human rights were interlinked. It was noteworthy that, with the exception of countries in the process of overcoming internal conflicts, no liberal democracy, in any part of the world, had been the subject of direct monitoring under agenda item 12.

83. Nevertheless, there was a need to devise more effective ways, both within and outside the United Nations, to help democratic countries in their efforts to ensure respect for human rights. It had become clear that denunciations and reproaches could be effective when directed at authoritarian regimes that denied the existence of human rights violations, but were of little help when addressed to democratic Governments which were the first to recognize, denounce and combat human rights violations in their territories.

84. For that reason, Brazil had urged the international community to establish a programme to support domestic efforts aimed at strengthening the rule of law on a national basis. That was the rationale behind paragraph 69 of the Vienna Programme of Action and what had inspired the delegation of Brazil to initiate what had become General Assembly resolution 49/194 and draft resolution L.77 which the Commission had just adopted by consensus.

85. Mr. ROSALES (Nicaragua) said that 20 years after the invasion of Cyprus, violations of fundamental human rights were continuing, and drew attention to Commission resolution 1987/50 which had called for the full restoration of all human rights to the population of Cyprus, in particular to the refugees. Attempts to populate the northern part of the island with people other than its inhabitants were undermining the possibility of dialogue between the Greek Cypriot and Turkish Cypriot communities. Such dialogue would never be possible until the crisis of confidence between the two communities had been overcome, for even the efforts of the Secretary-General of the United Nations in July 1992 to arrive at a general agreement had proved ineffective. Nicaragua had welcomed the meetings held in May 1993 at United Nations Headquarters aimed at finding ways to strengthen confidence, establish a constructive atmosphere in which negotiations could take place, reopen the fenced areas of Varosha and Nicosia International Airport and establish the free movement of passengers and goods between the two zones.

86. However, sufficient progress had still not been made, and the Government of Nicaragua therefore called on the Commission to continue its consideration of the question of human rights in Cyprus under agenda item 12 (a).

87. Mr. QUAUNINE (Bangladesh) said that, during its fifty-first session, the Commission on Human Rights had heard from the Special Rapporteur, the Minister for Foreign Affairs of Croatia and the representative of Bosnia and Herzegovina who had all testified to the nature and extent of the campaign

of genocide and ethnic cleansing being carried out by the Bosnian Serb authorities in Bosnia and Herzegovina. Thus far, approximately 200,000 persons, including 17,000 children, had been either killed or were missing in Bosnia and Herzegovina. More than 25,000 women had been raped and almost half of the 4.3 million people of that country had been forced from their homes. The Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Committee of the Red Cross (ICRC) had confirmed information about the existence of forced labour camps and detention centres that were being run by the Bosnian Serb authorities.

88. The Bosnian people had been consistently denied their right to live in peace and dignity within a recognized State as a member of the international community. At present, 70 per cent of the territory of Bosnia and Herzegovina was occupied by the aggressor; the territorial integrity of the country had been violated. It was unfortunate that the international community had not responded effectively to calls for the lifting of the arms embargo on Bosnia and Herzegovina so that its people could exercise their right of self-defence.

89. The Bosnian Serb authorities had also wilfully disregarded the rights of the members of the international community who were trying to save the lives and honour of the people of Bosnia and Herzegovina. The safe areas and exclusion zones established by the United Nations Security Council had been regularly violated with impunity by the Bosnian Serb forces.

90. The establishment of an International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 was a welcome development. Full support for the Tribunal could have a positive impact on respect for human rights in Bosnia and Herzegovina.

91. Bangladesh urged the international community, and particularly the Contact Group, to step up efforts to transform the cease-fire agreement into a broader framework of understanding for the peaceful resolution of the conflict. Turkey, on behalf of the member States of the Organization of the Islamic Conference, would submit a draft resolution to draw the attention of the international community to the continuing plight of the Bosnian people; Bangladesh would be one of the sponsors.

92. Mr. AL-SALLAL (Observer for Kuwait) said that the interim report of the Special Rapporteur on the situation of human rights in Iraq to the General Assembly at its forty-ninth session (A/49/651) and to the Commission on Human Rights at its fifty-first session (E/CN.4/1995/56) had dealt in detail with the situation in Iraq and the question of Kuwaitis who were missing, or were still being held as prisoners of war in Iraq. The various efforts made, such as those of the Multinational Tripartite Commission, friendly countries, and the Organization of the Islamic Conference, had been unable to convince the Government of Iraq sincerely to cooperate in revealing the fate of missing Kuwaitis and prisoners of war. Iraq was simply giving the illusion of cooperating with international efforts in order to deceive world public opinion, and its policy therefore threatened peace and stability in the entire region.

93. It must be made clear to the Government of Iraq that it should address the question of missing Kuwaitis and prisoners of war and other human rights violations and that it could not circumvent the resolutions adopted by international bodies on the subject.

94. Mr. PARREIRA (Angola), speaking in exercise of the right of reply, said that his delegation had been surprised at the tone and content of the statement made on 1 March 1995 by the representative of Canada, speaking on agenda item 12, which had included false and dangerous allegations. Contrary to what he had stated, and despite the war that had destroyed Angola, the Government had made giant strides towards the establishment of human rights institutions. The Government had replied to all the letters and questionnaires it had received, as the Centre for Human Rights and the Secretary-General of the United Nations could confirm. Owing to time constraints, however, he was unable to describe the other specific measures taken by the Government.

95. The Government of Angola had come to power as a result of elections monitored by the United Nations. Hundreds of observers had been present during the balloting, including representatives of Canada.

96. Denial of the existence of a democratic government in Angola was a deliberate refusal to acknowledge the reality of the situation, and amounted to political short-sightedness. Denial of the existence of a democratic process in Angola was not only in bad taste but also threw doubt on the objectives of the Commission on Human Rights.

97. Democracy in Angola was an institutional fact, and was enjoyed daily by all Angolan people. A rejection of that reality or a belief in false allegations such as those made by the representative of Canada would detract from one of the most noble victories of the Angolan people, namely, the establishment of a democratic order and a State governed by the rule of law.

98. Mr. EGÜZ (Observer for Turkey), speaking in exercise of the right of reply, said that the problem in Cyprus was political and could therefore be resolved. However, the first step was for the Greek Cypriots to abandon dreams of returning to the pre-1974 status quo.

99. It was cynical for those who had inflicted so many wrongs on the Turkish Cypriots now to attempt to defend their interests even against Turkey.

100. The human rights of Turkish Cypriots had been systematically violated by the Greek Cypriots between 1963 and 1974. The intervention of Turkey in line with the Guarantee Treaty and the subsequent agreement on the exchange of population had eliminated that possibility.

101. At present, human rights violations could not take place on the island, since the Greek Cypriots could no longer attack, kill and rape Turkish Cypriots or destroy their houses and cultural monuments.

102. Exploitation of the issue of missing persons was neither moral nor helpful, and the Commission on Human Rights could not remain seized of the issue for another quarter of a century.

103. The Commission should therefore remove the question of human rights in Cyprus from its agenda so that it could focus on really important and urgent problems in the world.

104. Mr. AL-DURI (Observer for Iraq), speaking in exercise of the right of reply, said that, according to the representative of Kuwait, Iraq was disregarding certain resolutions adopted by international bodies. In point of fact, Iraq had made every effort to solve the problem of missing persons, both Iraqis and Kuwaitis, in various ways, as during talks in Geneva where it had worked with representatives of Kuwait and Saudi Arabia.

105. The heart of the problem was that people had disappeared during military action. The situation was therefore complicated, but Iraq would continue to cooperate with the International Committee of the Red Cross to find a humanitarian solution.

106. It was true that people were suffering in Iraq. They were suffering at the hands of the Government of Kuwait that was holding millions of dollars belonging to other States and Governments in order to convince them to continue the embargo against Iraq. Those who agreed to do so were equally responsible for the continuing suffering of the people of Iraq. Furthermore, the report of the Special Rapporteur on the situation of human rights in Iraq (E/CN.4/1995/56) was a further attempt to ensure that the embargo against Iraq remained in place.

107. Mr. AL-SALLAL (Observer for Kuwait), speaking in exercise of the right of reply, said that the representative of Iraq should confirm whether Iraq had released any prisoners during the so-called period of cooperation. Cooperation should go beyond mere attendance at meetings. Tangible progress had not been made because Iraq used its presence at such meetings as a delaying tactic. The real reason the embargo against Iraq was still in place was that Iraq had not complied with the terms for its removal.

108. Mr. AL-DURI (Observer for Iraq), speaking in exercise of the right of reply, said that there were no Kuwaiti prisoners in Iraq. Everything possible was being done to find the people who had disappeared at the time of war. Those people were not being held prisoner. He challenged the international community to visit Iraq to see for itself whether there were any such prisoners.

109. Mr. AL-SALLAL (Observer for Kuwait), speaking in exercise of the right of reply, said that Iraq's claims that there were no Kuwaiti prisoners were untrue. Iraq had recognized, in documents submitted to the International Committee of the Red Cross, that it had imprisoned many Kuwaitis and transferred them to Iraqi prisons. Pursuant to the third and fourth Geneva Conventions, Iraq should release the prisoners it was holding.

The meeting rose at 9.05 p.m.